serving the public interest. The object of the condition is perfectly clear. The minutiae of rules governing *the duties* of attendants had been entirely obviated by the very words of Condition 6, which sets out in clear terms the purpose of having attendants on lorries and the two duties they are intended to perform.

The strait-laced interpretation of the law, which was the view of the High Court, is in our opinion iconoclastic and erroneous. We accordingly gave our answer to the reference in the affirmative.

We should, however, like to add a rider; we do not think it right or proper or that it serves any purpose for the driver carrying out or disobeying the instructions of his employer also to be prosecuted. The principle to be applied is *respondeat superior* and it is true to say that invariably the employer has been paying his driver's fine. The only possible exception would be where the driver takes out a vehicle for his own private gain, using it without the owner's knowledge, consent or connivance; in which case, the proper person to be prosecuted should be the driver himself and no reflection cast on the owner if by evidence produced, he can exonerate himself.

Answer in the affirmative.

BONG NYI MOI v. NARAYANASAMY & ANOR.

[F.C. (Ong C.J., Gill and Ali F.JJ.) March 14, 1973]

[Kuala Lumpur — Federal Court Civil Appeal No. 78 of 1972]

Negligence — Finding of fact by trial judge — Statement to police — Admissible to impeach credit of witness.

The appellant's husband was killed in a collision between his scooter and a lorry driven by the first respondent. On the evidence the trial judge found that the lorry driver was not to blame and he dismissed the claim of the appellant. The appellant appealed and contended that in the light of the conflicting evidence the findings of the trial judge were not supported by the evidence.

Held, dismissing the appeal (Ong C.J. dissenting): in this case the appellate court should not interfere with the findings of the trial judge who had seen and heard the witnesses and made his findings thereon.

Cases referred to:-

(1) *Goh Beng Seng* v. *Dol bin Dolah* [1970] 2 M.L.J. 95.

(2) *Ooi Choon Lye* v. *Lim Boon Kheng & Ors.* [1972] 1 M.L.J. 153.

FEDERAL COURT.

David S. H. Tay for the appellant.

Abdul Razak bin Datuk Abu Samah (Senior Federal Council) for the respondents.

Ong C.J.: At about 4.30 p.m. on September 28, 1970 on the Karak-Bentong road, the deceased Chong Huat was riding his Vespa scooter when he collided against the rear off-side of a Jabatan Kerja Raya lorry driven by the first defendant, Narayanasamy, coming from the opposite direction around a right-hand bend. The bend was described as "gentle", but it would appear from the photographs that visibility of vehicular traffic approaching each other from opposite sides of this bend would be no more than 40 to 50 yards. The impact had shorn off the deceased's entire cranium which was found subsequently on the lorry's side of the road 4 feet 6 inches from the grass verge. The deceased's corpse, motor-scooter, mudguard and two lumps of his brain, however, were all scattered on the deceased's side of the road. Such, in brief, was the material evidence on which the deceased's widow based her claim for damages against the defendants, on the ground of negligent driving by Narayanasamy.

Conflicting evidence was given by the only two available eye-witnesses. They were Yong Soon Tiam, a friend of the deceased, who was riding his motorcycle a short distance behind the deceased, and Narayanasamy, the lorry driver. The learned trial judge gave little or no weight to their oral evidence and in his judgment accepted as the plain unvarnished truth a statement given by Yong Soon Tiam to Police Inspector Ramalingam, wherein it was said that, as the deceased was negotiating the bend "his Vespa went into the centre of the road and could have even passed into the other half of the road". On this point the judge said in his judgment: —

"As Mr. Tay says, the crux of the matter is: where was the point of impact? If the collision took place on the Vespa's side of the road, then clearly the lorry driver was to blame for the accident. Having given this matter very anxious thought, I regret having to conclude that it is more probable than not that the collision took place on the lorry's side of the road. I say so mainly because of what P.W.1 (Yong Soon Tiam) told the police about 5½ hours after the accident .... I am also influenced by the fact that when giving evidence P.W.1 first said in examination-in-chief that as the deceased was negotiating the bend he went to the centre of the road, but immediately thereafter corrected himself and said that the deceased went near the centre of the road. The fact that he at first said that the deceased went to the centre of the road made me wary of his evidence.

The fact that the things mentioned by Mr. Tay were all found on the deceased's side of the road can in my opinion be explained by the fact that the *deceased must have hit the rear off-side of the lorry* in a glancing way so that after impact they ricocheted forward and to the left, and on the fact that part of the deceased's skull was found on the lorry's side of the road can be explained in my opinion in this way — probably after the impact it somehow got attached to the lorry and was pushed back towards Karak and fell on to the road.

I would therefore dismiss this suit with costs".

In this appeal the appellant's contention is that, according to the evidence, the learned trial judge ought to have found the lorry driver to blame for the collision *in toto* or at least in part.

I must say that, upon perusal of the judgment, I found myself at the start in complete agreement therewith. After hearing the argument of counsel for the appellant, however, and upon closer critical examination of the evidence, I have come to the conclusion that this clearly is a case where the blame was not all on one side, but should have been apportioned. I shall now set out why I would have held the lorry driver partly to blame.

In the first place it will be noted that the sketch plan showed the centre line not equidistant from both sides of the road at the scene of the accident. Of its total width of 22 feet 6 inches, the lorry's half measured exactly 10 feet 5 inches. The lorry was 7 feet 9 inches wide and 15 feet 9 inches in length. Now, Narayanasamy had said in his evidence that he

swerved to his left to avoid a collision. Yong Soon Tiam, the plaintiff's witness said likewise: "Both the scooter and lorry tried to avoid collision — by swerving to its own left side". It was thus a primary fact admitted and agreed on both sides that the lorry did swerve to its left — at least it so appeared to Yong Soon Tiam. During further examination-in-chief, the lorry driver said: "Coming to the bend where the accident happened my lorry was about 2 feet from the centre line on my correct side". Assuming that statement to be true, this distance of 2 feet added to the width of the lorry, which was 7 feet 9 inches, makes a total of 9 feet 9 inches, thus leaving its near-side wheels only 8 inches from the edge of the road. Clearly then the lorry had no room on its left for this alleged swerve — unless it went over the grass verge, which was a most material fact to bring up in evidence if it was true. Yet Narayanasamy never said that in his attempt to avoid an accident he did his best even by going on to the grass. Since, however, it was a fact alleged by him that he swerved to the left upon seeing the oncoming scooter, how, it may be asked, could he have moved any further left unless he had previously been travelling along the crown of the road astride the white line as he was negotiating the bend? It is indeed common knowledge — a point stressed by counsel for the plaintiff — that most lorries and cars taking a *right-hand* bend do often shave off the curve at its apex by encroaching on the other side whenever the road is seen or thought to be clear. I have personally observed this over the years and during a recent journey of some 500 miles have counted scores of lorries and cars thus straightening out bends in the same manner as racing drivers negotiating curves on a race-track. In my opinion, therefore, the lorry's right-hand bend, plus the admitted fact that the lorry did attempt to get back as far as possible to its own side, must be regarded as primary facts from which the inference to be drawn is that the lorry was taking the bend astride or over the crown of the road, and that upon seeing the oncoming scooter, the sluggish engine and the heavy load of the lorry did not enable its driver in good time to get out of the way of the deceased.

This inference is strongly supported by facts which speak for themselves. In the key to the sketch plan, it was stated that there was blood on the rear side of the lorry 3 feet from its tail-end. This must be the spot against which the deceased had smashed his head. There was no damage to the lorry. This absence of damage to the lorry and the nature of the damage to the Vespa completely rule out a head-on collision. All the indications were that the lorry obliquely presented its side to the Vespa at the moment of impact. Such also was the finding of fact by the learned trial judge. If it were true, as alleged by the lorry driver, that he was at all times *prior to* the collision, keeping to his own side of the road, only 2 feet from the centre line, and that when he first saw the deceased, about 30 feet away, encroaching over the lorry's half of the road, then it is in my view absolutely impossible for the deceased not to have met the lorry in head-on collision. Assuming that the lorry was on its own side of the road, the deceased could not have struck the side of the lorry near its tail-end unless his Vespa came towards the lorry at an angle from close to the Vespa's own edge of the road. But then it was said, both by Yong Soon Tiam and the lorry driver, that the deceased was driving somewhere near the *middle* of the road immediately before the collision — definitely not close to the roadside. Therefore the only possible explanation for the impact at the rear end of the lorry must be, as I stated earlier, that the lorry presented its off-side at an oblique angle towards the oncoming Vespa. This again reinforces the inference that the angle thus presented could only have arisen from the fact of the lorry having encroached over the crown of the road whilst rounding the bend and being unable to get out of the path of the deceased.

This conclusion which I have reached of course implies that the deceased was a good deal to blame for his own death by not keeping a proper lookout while riding close to the middle of the road. But the lorry driver was certainly not to be wholly exonerated for having encroached on the wrong side of the road. Especially when negotiating a corner, where visibility was reduced to a short distance, he should never have strayed over the centre line, knowing that his engine would not be sufficiently responsive to get him back in time to his own side in an emergency.

Having thus differed from the learned trial judge as to apportionment of blame, it is now my duty to offer an explanation for not accepting *in toto* the statement made by Yong Soon Tiam as a wholly accurate account of the accident. Inspector Ramalingam recorded this statement in English. As an interpreter he called in a Cantonese-speaking corporal who used the same Chinese dialect as Yong. But this corporal had only a Standard 4 education in English, which he admitted being unable to speak well. So to the inspector he had to translate "mainly in Malay, rather than English". The standard of his proficiency in Malay was not disclosed. As Inspector Ramalingam himself also admitted, he could not, of his own personal knowledge, say whether the contents of the statement were accurate. With respect, therefore, I feel I cannot give as much weight as did the learned trial judge to the accuracy of phrases indicating, with distinctly different nuances of meaning and using the subjunctive mood, the movement and position of the Vespa and lorry as recorded following translation and retranslation through different languages.

If Yong was rightly to be disbelieved *in toto*, I am of opinion that the lorry driver was equally unworthy of credit as a witness. Even in examination-in-chief, he had little regard for the truth. He spoke first of passing three motor-cyclists, then as he came to a right-hand bend, seeing a fourth (the deceased) and that a fifth motor-cyclist stopped on seeing the accident. Yet, continuing his evidence a few moments later and describing the incident in more detail, he said: "All the motor-cyclists (five of them) were about 10 feet from each other — and they were racing. They were doing between 40 and 50 miles per hour". This was a self-contradiction and manifestly a falsehood.

Discounting, as I think this court should, the oral evidence altogether, except the agreed fact that the deceased was certainly not riding close to the roadside, what evidence was there exonerating the lorry driver, once he had to be treated as unworthy of credit? The glancing impact and the right-hand bend being taken by the lorry were primary facts to be considered, as I have explained above. The only reliable evidence must be the mute evidence of the sketch plan and the objects scattered on the road.

In the next place, I would respectfully differ from the learned trial judge in holding that the corpse, brain matter etc. all being found scattered over the Vespa's side of the road could be readily explained in favour of the defence. The corpse lay wholly on the grass verge; next, the Vespa was astride the edge of the road, then the spot of blood 1 foot 5 inches from the roadside; next again the brain-matter 2 feet inside the grass verge; after that another piece of the deceased's brain 2 feet 9 inches from the roadside and finally the Vespa mudguard only 3 feet 2 inches from the roadside. These objects trace a noticeable trail leading from close to the Vespa's side of the road towards where the lorry came to a stop. I do not think that the blood from the deceased's head which dripped off the tail of the lorry, nor the brain-matter in two places could have been blown by any tail-wind 10 feet or more across the road from its opposite side, to support the evidence, already proven untrue, of the lorry driver. I agree that metal and hard objects could have ricoheted as the result of heavy impact, but not the other substances abovementioned. The skull, of course, could have rolled on to where it came to rest. The point of impact was clearly before the corpse came to rest on its own side of the road

All in all, therefore, I feel, with respect, that the learned trial judge had overlooked what should have been regarded as the primary facts, as I have pointed them out, indicative of encroachment by the lorry on the wrong side of the road while taking the bend. There was negligence on both sides. Had the deceased not failed to maintain a proper lookout he should have been able to get back in good time to his own side of the road from the middle. But the lorry had wrongfully encroached over to its wrong side in taking the bend and this fact was a not negligible factor in causing the accident. I would therefore apportion the liability of the deceased and the defendants in equal proportions.

Accordingly I would allow this appeal to the extent abovestated. As the appeal succeeds, the appellant should be entitled to costs of the action and in this appeal. I wholly agree with the assessment of damages made by the learned trial judge so that his award will be the basis for calculation of damages. I would therefore dismiss the cross-appeal as to quantum.

Gill F.J.: This is an appeal from a judgment of the High Court dismissing the appellant's claim in an action for damages arising out of the death of her late husband Chong Huat as a result of a collision between a Vespa motor scooter ridden by the said deceased and a motor lorry driven by the first respondent and belonging to the second respondent.

The collision occurred at about 4.30 p.m. on September 28, 1970 when the deceased, travelling from the direction of Karak and proceeding towards Bentong, was negotiating a gentle lefthand bend in the road at the 4½ milestone and the first respondent was driving his motor lorry from the opposite direction. The weather was fine and the road surface dry at the time of the accident.

The deceased had left Gambang near Kuantan earlier in the day to return to his home in Sungei Buloh Village in Selangor, together with six other persons on four motorcycles. The plaintiff herself was in the party, riding pillion on the motorcycle of her brother Wong Yee Kong who led all the way. Following Wong in that order were Phoon Yong, Lam Hooi, the deceased and Yong Shoon Tiam. Wong had gone past the lorry and travelled a short distance when, on hearing that his brother-in-law had met with an accident, he turned back and arrived at the scene within 5 minutes. Only Yong, being the last in the line, saw how the accident happened.

In his report to the Police which he made soon after the accident, the lorry driver said that he was negotiating a bend when suddenly a motorcycle coming from the opposite direction encroached into his path and knocked into his motor lorry. At about 9.55 p.m. on the same day Yong made a statement to Inspector Ramalingam that he was riding about 20 yards behind the deceased, that as the deceased was negotiating a bend his Vespa went into the centre of the road, and that it might have even passed into the other half of the road.

Both the plaintiff and her brother gave evidence at the trial of the action, but nothing very much turned on their evidence as they had not seen how the accident took place. Yong therefore was the only eyewitness for the plaintiff. His evidence in court was that he was riding 30 to 40 feet behind the deceased who was negotiating a lefthand bend when his Vespa went towards the centre of the road. He then corrected himself by saying that the Vespa went near the centre. He went on to say that all of a sudden he saw a motor lorry coming from the opposite direction and encroaching into their side of the road, and that the Vespa and the lorry swerved to its own left side but could not avoid a collision.

Going into details, Yong said that just before the accident the Vespa was about 1 or 2 feet from the centre white line on its correct side of the road while the lorry was 4 feet from the centre line on the wrong side of the road, that the impact took place on the deceased's side of the road, and that just before the accident the Vespa was doing about 30 to 40 miles an hour while the lorry was running very fast.

The evidence which the lorry driver gave in court may be summarised as follows. He was going along the road when he saw a few motor cyclists coming from the opposite direction. They were racing at between 40 and 50 miles per hour and were about 10 feet apart from each other. Having passed three of

them, he came to a righthand bend, where he was travelling at 20 miles per hour about 2 feet from the centre line on his side of the road, when he saw a fourth motorcycle about 30 feet from him and encroaching into his path. He swerved to the left in order to avoid a collision. Nevertheless, the motorcyclist collided with the off-side rear body of his lorry. He stopped his lorry immediately. Just then a fifth motorcyclist travelling 10 feet behind the fourth motorcyclist also stopped. He got off his lorry and found that the fourth motorcyclist had died.

Inspector Ramalingam gave evidence on behalf of the respondents to say that he recorded in English a statement made to him by Yong through Detective Corporal Chin Kim Fong as interpreter. He admitted under cross-examination that he could not of his personal knowledge say if the contents of the statement were accurate, but he assumed that the interpreter had interpreted correctly. The Corporal testified that he interpreted to the Inspector in Malay what Yong said to him in Cantonese which is his mother tongue, that Yong and he understood each other, that he spoke to the Inspector mainly in Malay rather than in English which he understands but cannot speak well, and that the statement was read back to Yong twice.

The other evidence at the trial of the action consisted of an agreed bundle of documents which was put in by consent of the parties. Amongst the documents was a sketch plan of the scene which was drawn up by Inspector Ramalingam after he had carried out his investigations. The plan shows that after the accident the motor scooter, its mudguard, the body of the deceased and two lumps of brain matter were lying scattered on the deceased's side of the road. The top part of the deceased's skull which had been shorn off as a result of the impact, however, was found on the lorry's side of the road.

On the evidence before him the learned trial judge made a finding of fact which is summed up in his judgment as follows: —

"Having given this matter very anxious thought, I regret to have to conclude that it is more probable than not that the collision took place on the lorry's side of the road. I say so mainly because of what PW1 told the police about 5½ hours after the accident."

He also found as a fact that the deceased must have hit the rear off-side of the lorry in a glancing way so that after the impact the motorcycle and the deceased's body ricocheted forward and to the left. As regards the position of the skull, he expressed it as his opinion that probably after the impact it somehow got attached to the lorry and was pushed back towards Karak and fell on to the road.

The main ground of appeal is that the learned trial judge's finding that the accident happened on the lorry driver's side of the road is untenable and not supported by evidence. It is said in this connection that in arriving at his finding the learned judge was influenced by the statement made by Yong in the course of police investigations, which on the authority of *Goh Beng Seng* v. *Dol bin Dolah*[1] was not admissible in evidence. In my judgment, a statement to the Police in the course of investigation is admissible for the purpose of impeaching the credit of a witness in a civil case. This is what was decided by this court in *Ooi Choon Lye* v. *Lim Boon Kheng & Ors.*[2].

Apart from what was found at the scene of the accident by the police as indicated in the sketch plan, the appellant's case rested entirely on the evidence of Yong. Yong's evidence in court was discredited by what he had told the police some 5 hours after the accident. It is true that his statement to the police was not substantive evidence at the trial of the action, but there can be no doubt that it nullified the effect of his evidence in court as to how the accident took place. That left the evidence of the lorry driver as the only eye-witness' account of the accident. There is nothing in the learned trial judge's judgment to suggest that he did not accept the lorry driver's evidence. There can therefore be no substance in the argument that the learned judge's finding of fact was not supported by evidence.

The only other important ground of appeal is that the learned judge's finding that the deceased ricocheted forward to the left after impact with the defendant's lorry is not supported by evidence. I do not think I can accept this as a valid ground. The fact that the top part of the deceased's skull was shorn off by the impact is a clear indication of the force of the impact in consequence of which the deceased and his motorcycle would have naturally fallen back on his side. In any event, the so-called silent evidence of what was found at the scene can only be useful to ascertain the facts when there is no other evidence available. In coming to his conclusions, the learned trial judge was clearly influenced by the oral testimony of witnesses.

The main issue in the case being one of fact, and as the learned trial judge based his decision on the opinion which he formed as to the comparative reliability of witnesses, it is not open to this court to interfere with that decision. I would therefore dismiss this appeal with costs.

Ali F.J.: The appellant's husband, Chong Huat, was killed in a collision between his Vespa scooter and a lorry driven by the first respondent. Her claim for damages in the High Court at Raub, Pahang, was dismissed by Suffian F.J.

On the evidence before him the learned trial judge found that the lorry driver was not to blame. Following accepted practice he assessed general damages at $30,000 and awarded 6% interest thereon from the issue of the writ up to judgment. He also allowed her claim for special damages at $850 and awarded 3% interest thereon from the date of the accident to the date of judgment.

The appellant has appealed against the trial court's finding on liability. The respondent's appeal against quantum was withdrawn at the hearing.

The accident occurred at about 4.30 p.m. on September 28, 1970 at a bend near the 4½ milestone Karak/Bentong road. The surface of the road was dry and the weather was good. The road was 22ft 6ins wide. The deceased was one of five motorcyclists

travelling from the direction of Kuantan and the lorry was coming from the opposite direction. After the collision the deceased, his motorcycle, traces of blood and brains, etc. were found in the motorcyclist's side of the road either on the road or on the grass-verge. But his skull was found in the lorry's half of the road where the lorry was found parked. Some blood stains were found on the rear offside wall of the lorry. Most of these are shown in the sketch plan.

The positions of the two vehicles as shown in the sketch plan provide little or no assistance in ascertaining whether or not the collision occurred in the deceased's half of the road. The appellant's case on liability turned almost entirely on this question. She relied on the evidence of her only witness, PW1, who claimed to have seen what happened shortly before the collision. He said:

"As the Vespa was negotiating the left-hand bend, it went to the centre of the road (now says) near the centre of the road — and all of a sudden I saw a motor lorry coming from opposite direction. The lorry encroached into our side of the road. Both the scooter and lorry tried to avoid collision — by swerving to its own left side — but could not make it and there was a collision."

According to him the deceased was about 1 to 2 ft from the centre line on his own side of the road and the lorry was in the wrong half of the road, some 4 feet from the centre line. If his evidence had been accepted by the learned trial judge, I have no doubt that there would have been a finding of negligence against the lorry driver. But it was not. This is clear from the following passage of the judgment:

"Having given this matter very anxious thought, I regret to have to conclude that it is more probable than not that the collision took place on the lorry's side of the road. I say so mainly because of what PW1 told the police about 5½ hours after the accident. So soon after the tragedy when the question of compensating the deceased's widow had not probably occurred to him he said quite voluntarily to Inspector Ramalingam that the Vespa as it was negotiating the bend went into the centre of the road, that it might even have passed into the other side of the road, that he did not notice whether the lorry was going fast or slow, that he saw the deceased hitting into the rear right side of the lorry and that after hitting into the lorry the Vespa came back to its correct side of the road where it fell on the left side of the road as one faced Bentong. I am also influenced by the fact that when giving evidence PW1 first said in examination-in-chief that as the deceased was negotiating the bend he went to the centre of the road, but immediately thereafter corrected himself and said that the deceased went near the centre of the road. The fact that he at first said that the deceased went to the centre of the road at once made me wary of his evidence."

Here lies the difficulty in this appeal. The learned trial judge had seen and heard the witness and was not satisfied with his evidence. He gave his reason for not being so satisfied. Speaking for myself I must say I cannot quarrel with this reason. Indeed, I do not think I should. In the event there is only the sketch plan to consider. The learned trial judge has considered it too and apparently was unable to draw any inference of negligence against the lorry driver. The fact that the deceased and his motorcycle were found in his own half of the road can, of course, suggest the possibility that the lorry had encroached into the wrong side of the road. But it is no more than a possibility. But bearing in mind the fact that the motorcycle was the lighter of the two vehicles and the admission by the appellant's witness that the deceased was travelling at about 40 miles per hour, it is also reasonable to assume that the collision might have occurred on his wrong side of the road and the force of the impact had thrown him and his motorcycle some considerable distance to his left leaving the various traces I have mentioned earlier. The fact that he was taking a lefthand bend strongly supports this assumption. Furthermore, the finding of the skull in the lorry's side of the road also suggests the likelihood of the collision occurring in the deceased's wrong half of the road. Finally, there was the testimony of the lorry driver which, apparently, was accepted by the learned trial judge.

Accordingly, I would dismiss this appeal with costs.

Appeal dismissed.

Solicitors: *Murphy & Dunbar.*

THEVANNASAN & ANOR. v. PANG CHEONG YOW & ORS.

[F.C. (Ong C.J., Gill and Ali F.JJ.) March 14, 1973]

[Kuala Lumpur — Federal Court Civil Appeal No. 80 of 1972]

Negligence — Lorry parked on correct side of highway with lights on — Another lorry crashing into stationary lorry from behind — Whether driver of stationary lorry negligent.

The second appellant's lorry was parked on its own side of the road with its lights on 4¼ miles before Bentong. Another lorry carrying the first respondent crashed into the stationary lorry from behind. The first respondent suffered injury and subsequently claimed damages against the drivers and owners of both vehicles, alleging negligence on the part of the drivers of one or the other or both of them. The learned trial judge found that the driver of the stationary lorry was 75% to blame for the accident and the driver of the other lorry 25% to blame for the accident and he apportioned damages accordingly. Both the appellants and the third respondent appealed and cross-appealed against the trial court's findings on liability and apportionment.

Held, allowing the appeal (Ong C.J. dissenting): the first appellant, the driver of the stationary lorry, could not in the circumstances be said to have failed in his common law duty to take care. He had parked his lorry with its rear lights on and in such a manner as to leave enough space for vehicles coming from the rear to pass through safely. The first appellant therefore cannot be held guilty of negligence and the accident was therefore caused solely by the negligence of the driver of the lorry, which crashed into the back of the stationary lorry.

Cases referred to:-

(1) *Brophy* v. *Shaw, Times* June 25, 1965; [1965] C.L.Y. 2677; [1969] 1 M.L.J. 49, 52.

(2) *Edwards* v. *Nobbs* (1963) Bingham's All the Modern Cases on Negligence, 1 Supplement; [1969] 1 M.L.J. 49, 52.

(3) *Kerry* v. *Carter* [1969] 1 W.L.R. 1372, 1376.

(4) *Sepang Omnibus Sdn. Bhd.* v. *Christina Loh Soo Pang* [1970] 2 M.L.J. 234, 236.

(5) *Bolton & Ors.* v. *Stone* [1951] 1 All E.R. 1078, 1082.

(6) *Chan Loo Khee* v. *Lai Siew Soon & Ors.* [1971] 1 M.L.J. 253.

(7) *Kelly* v. *W.R.N. Contracting Ltd. & Anor. (Burke, Third Party)* [1968] 1 W.L.R. 921.